

OFFICE OF THE DIRECTOR GENERAL & INSPECTOR GENERAL OF POLICE
MEGHALAYA :: SHILLONG

Circular No35/ 2011

Subject : **CRPC AMENDMENT ACT, 2008**

The Cr.PC Amendment Act 5 of 2009 has effected far reaching changes in Sec 41 Cr.PC which relates to the power of arrest being exercised by police. These changes have streamlined the powers that a police officer can exercise while making an arrest of a person against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence. The other significant changes relate to: 41A concerning Notice of appearance before police officer; 41B concerning procedure of arrest and duties of officer making arrest; 41C regarding control room at Districts and 41D relating to the right of arrested person to meet an advocate of his choice during interrogation.

All police officers should be aware of these amendments in the law relating to these subjects and they are hereby instructed to strictly adhere to the law with regard to arrest and other related subjects as amended in Sec 41 Cr.PC.

The following are the salient features of the aforesaid amendments:-

1. Clause (a) and (b) of Sec 41 Cr.PC as amended by Act 5 of 2009, after substitution, stand as under :

2. “(a) who commits, in the presence of a police officer, a cognizable offence;

(b) against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence punishable with imprisonment for a term which may be less than seven years or which may extend to seven years whether with or without fine, if the following conditions are satisfied, namely :-

(i) the police officer has reason to believe on the basis of such complaint, information, or suspicion that such person has committed the said offence;

(ii) the police officer is satisfied that such arrest is necessary –

(a) To prevent such person from committing any further offence; or

(b) For proper investigation of the offence; or

(c) To prevent such person from causing the evidence of the offence to disappear or tampering with such evidence in any manner; or

- (d) To prevent such person from making any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to the police officer; or
- (e) as unless such person is arrested, his presence in the Court whenever required cannot be ensured, and the police officer shall record while making such arrest, his reasons in writing.
- (ba) against whom credible information has been received that he has committed a cognizable offence punishable with imprisonment for a term which may extend to more than seven years whether with or without fine or with death sentence and the police officer has reason to believe on the basis of that information that such person has committed the said offence.”

1. Section 41A, 41B and 41D, after insertion, stands as under :

“41A. Notice of appearance before police officer – (1) The police officer may, in all cases where the arrest of a person is not required under the provisions of sub section (1) of Section 41, issue a notice directing the person against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence, to appear before him or at such other place as may be specified in the notice.

(2) Where such a notice is issued to any person, it shall be the duty of that person to comply with the terms of the notice.

(3) Where such person complies and continues to comply with the notice, he shall not be arrested in respect of the offence referred to in the notice unless, for reasons to be recorded, the police officer is of the opinion that he ought to be arrested.

(4) Where such person, at any time, fails to comply with the terms of the notice, it shall be lawful for the police officer to arrest him for the offence mentioned in the notice, subject to such orders as may have been passed in this behalf by the competent Court.

41B. Procedure of arrest and duties of officer making arrest - Every police officer while making an arrest shall –

- (a) Bear an accurate, visible and clear identification of his name which will facilitate easy identification;
- (b) Prepare a memorandum of arrest which shall be –
 - (i) attested by at least one witness, who is a member of the family of the person arrested or a respectable member of the locality where the arrest is made;
 - (ii) countersigned by the person arrested; and

- (c) Inform the person arrested, unless the memorandum is attested by a member of his family, that he has a right to have a relative or a friend named by him to be informed of his arrest.

41C. Control room at Districts - (1) The State Government shall establish a police control room –

- (a) in every district; and
(b) at State level.

(2) The State Government shall cause to be displayed on the notice board kept outside the control rooms at every district the names and addresses of the persons arrested and the name and designation of the police officers who made the arrests.

(3) The control room at the Police Headquarters at the State level shall collect from time to time, details about the persons arrested, nature of the offence with which they are charged, and maintain a database for the information of the general public.

41D. Right of arrested person to meet an advocate of his choice during interrogation -
When any person is arrested and interrogated by the police, he shall be entitled to meet a advocate of his choice during interrogation, though not throughout interrogation.”

Sd/-
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